



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 03/19/02  
AGENDA ITEM 3  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Appeal of the Planning Commission's Approval of Site Plan Review Application No. 2001-0270 and Variance Application No. 2002-0027 - Frank Goulart (Appellant), Bing Magpayo (Applicant/Owner) - The Property is Located at 22377 Main Street

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution, denying the appeal and finding that the project is categorically exempt from environmental review, and approving the project subject to the attached conditions.

**DISCUSSION:**

On January 24, 2002, the Planning Commission unanimously approved Site Plan Review and Variance requests to allow the construction of a duplex on the vacant lot bordered by Main Street, Hotel Avenue and Prospect Terrace.

The proposal is for a two-unit multi-family residence with an attached four-car garage. The building's mass is broken up by an open entry area, which separates the living areas, giving the appearance of two separate buildings on one foundation. The horizontal redwood siding will give the building a softer look, further reducing the massing. The foundation is under-emphasized by the decorative block wall material and the tendency is for the eye to focus on the redwood siding and large windows of the living area, which is cantilevered over the foundation wall. All street frontages will be landscaped with lawn, shrubs and six street trees in addition to the two existing street trees.

The building is designed such that no parking is visible from either Hotel Avenue or Main Street; the garage is accessed from Prospect Terrace. Prospect Terrace serves as an alley, providing access to garages and to the rear of lots on Main Street. Section 10-1.400(m)(6) of the Zoning Ordinance requires multiple-family residential development to have a driveway turnaround sufficient to allow vehicles to exit the property in a forward direction. The applicant is proposing two tandem garages sharing a driveway off Prospect Terrace. Due to the small size of the lot, the slope of the lot and the slopes of the surrounding streets, there is no feasible alternative to having cars back onto Prospect Terrace. There are other residential properties on Prospect Terrace with similar garage locations, so this would not be the only property having vehicles backing onto the street. The garage will not pose a safety problem due to the low volume of traffic on Prospect Terrace.

The letter of appeal from Frank Goulart states that no notice of the project was given to the Prospect Hill Neighborhood Association. According to the Planning Division's records, the Association was on its referral list, but it was removed for lack of a contact address after notices were returned several years ago. The Association had not since expressed interest in receiving notices. Mr. Goulart now has advised staff that he will be the Association's contact and he will receive future mailings for projects in and around the Prospect Hill area.

In addition, staff posted a notice on the property; several persons attended the Planning Commission hearing as a result of this posting. Mr. Goulart mentioned that the notice posted at the site calls the project a single-family residence. The proposal was at one time for a single-family residence, and the notice was corrected following the Commission hearing to reflect the plan for a duplex.

Other issues raised at the Planning Commission meeting included compatibility of the architectural style and the height of the building. As noted by staff in its report to the Planning Commission, the architectural style of the building is unusual, but the Commission thought that the creative design would fit in well with the neighborhood. The immediate neighborhood contains a mix of architectural styles, built during various time periods, with none dominant. The contemporary design is reflective of other modernistic buildings along Main Street and contributes to its eclectic mix. The North Hayward Neighborhood plan does not require conformance to the architectural styles of Prospect Hill in this block of Main Street between Hotel Avenue and Warren Street; the blocks to the north require consideration of the historic styles.

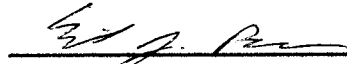
This property is located just within the Marks Historic District. The Citizens Advisory Board, on a split vote, recommended approval of this project. A concern of some Board members was that the proposed residential building is not consistent with the commercial buildings in the historic core. The stated focus of the Board is to be on commercial buildings, as outlined in its *Commercial Design Manual*. This property is in a block that is transitioning from commercial to office and residential uses, and there is no policy that the residential properties here relate to the commercial core.

The height of the apartment building to the north is 27 feet. The proposed building will be approximately 29 feet high at the west end (Prospect Terrace) and 34 feet high at the east end (Main Street). The duplex will not be significantly higher than the neighboring building and it will be well below the 40-foot height limit for the zoning district.

## **CONCLUSION:**

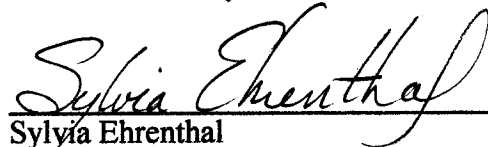
The proposed project is consistent with adopted land use policies of the General Policies Plan and the North Hayward Neighborhood Plan. The project also meets all applicable requirements of the Zoning Ordinance and other applicable ordinances. Staff recommends that the appeal be denied and the Planning Commission's approval of the Site Plan Review, Variance and Administrative Modification be upheld.

Prepared by:



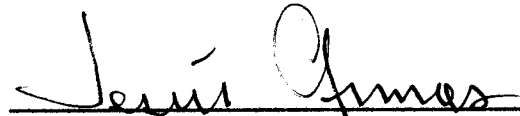
Erik J. Pearson, AICP  
Associate Planner

Recommended by:



Sylvia Ehrental  
Director of Community and Economic Development

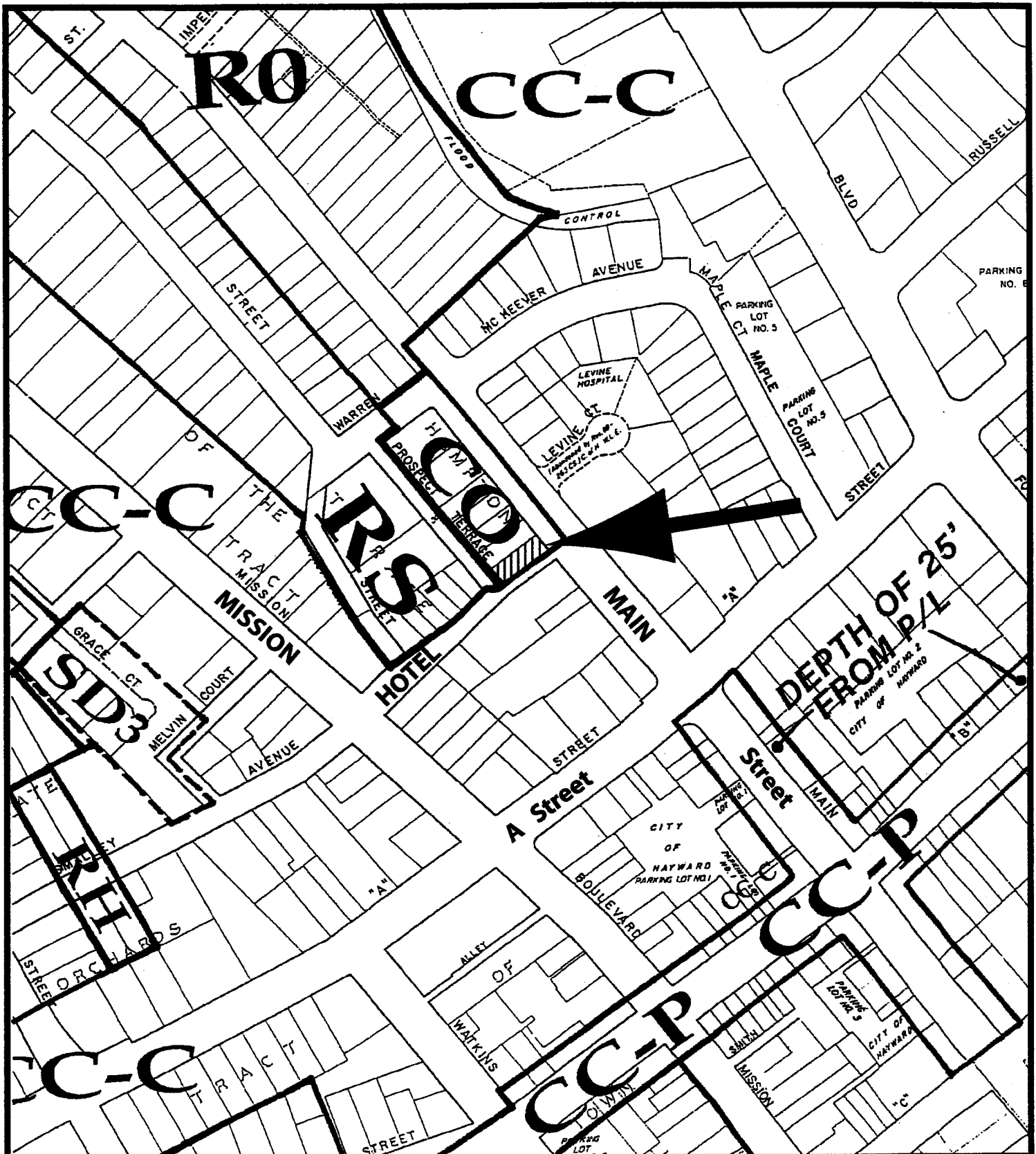
Approved by:



Jesús Armas, City Manager

Attachments: Exhibit A. Area and Zoning Map  
Exhibit B. Appeal letter dated January 31, 2002  
Exhibit C. Planning Commission Meeting Minutes, dated January 24, 2002  
Exhibit D. Staff Report to the Planning Commission, dated January 24, 2002  
Draft Resolution  
Site Plans

3/13/02



# **Area & Zoning Map**

PL-2001-0270 AUP

Address: 22377 Main Street

Applicant: Bing & Connie Magpayo

Owner: Bing & Connie Magpayo

**Frank Goulart**

MEDIATOR • ARBITRATOR  
ATTORNEY AT LAW  
The Historic Linekin Building  
22248 MAIN STREET  
HAYWARD, CA 94541  
(510) 581-9667  
FAX: (510) 581-9668

**RECEIVED**

JAN 31 2002

31 January 2002

PLANNING DIVISION

City of Hayward  
777 B Street  
Hayward, Ca 94541

Attn: Erik J. Pearson, AICP  
Associate Planner

Re: Site Plan Review Application No. 2001-0270 & Variance Application No. 2002-0027 - Bing Magpayo (Applicant/Owner)

Dear Mr. Pearson,

I hereby appeal the decision of the Planning Commission on January 24, 2002 with regards to approval of the above referenced applications.

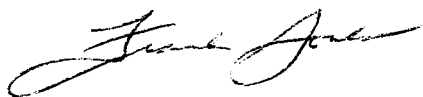
The basis of the appeal is that the Prospect Hill Neighborhood Association received no notice of the Planning Commission's hearing of this item. Indeed, I am told by staff that we were not notified because of a notation that we no longer existed. Please return our organization to your active list as the rumor of our demise was highly exaggerated.

I note also that the Prospect Hill Neighborhood Association also received no notice of the meeting of the Marks Historic Rehabilitation District Citizens' Advisory Board held on November 8, 2001 where that Board considered a different proposal. At that meeting, a single residence was proposed and accepted by the Board.

Indeed, the posted notice on the site says the proposal is for a single residence.

The Prospect Hill Neighborhood Association has a long and continuous history of participation in the affairs of our neighborhood. Please keep us advised of future impacts to our neighborhood.

Very truly yours,



Frank Goulart

## PUBLIC HEARINGS

1. **Site Plan Review Application No. 2001-0270 & Variance Application No. 2002-0027 - Bing Magpayo (Application/Owner):** Request to Allow the Construction of a Duplex Residence in the CO (Commercial Office) Zoning District and for a Variance to Allow Vehicles to Back Out (Forward Motion Required) of the Garage Onto Prospect Terrace. The Property is Located at 22377 Main Street at the Northwest Corner of Hotel Avenue

Associate Planner Pearson described the lot and the property. He said staff supports the variance and the application.

Commissioner Caveglia asked about the geotechnical reports. He wondered about its being almost on the fault. Associate Planner Pearson said they found that the fault traces are old enough to not be a concern.

Commissioner Williams asked about the plans for the unfinished building on the site to the south. He was told there are plans in the works to finish off that site as well. They then discussed the size of the building.

The public hearing opened at 7:49 p.m.

George Tolosa, architect of the project, said his objective was to seek approval of the plan. He had been working for eight months with the Planning Department. He commented that the design draws from the surrounding buildings. He explained that it was a creative, unique and holistic design which would serve as a transition between commercial and residential. He said he considers this a gateway which eases the transition between residential bungalows in the area and the downtown buildings. He noted that it is a visually prominent site. He said he hoped to bring out the best of the City and enhance what currently exists.

Commissioner Bogue asked about the block underneath and whether it is smooth or rough. He was told it is smooth but with a variety of color. He asked whether any rooftop access would be possible. He was told they could design access if that is what the Commission wanted.

Commissioner Caveglia asked about the projected rent for the building.

Bing Magpayo, the applicant, explained that the larger unit would be for his daughter.

Mr. Tolosa added that it is intended to be creative loft. He noted that the building expresses who you are and what you do. He added that he was raised in Hayward and had recently come back to the City.

Melissa Phillips, a neighbor, objected to the design. She asked that the owner and architect look around downtown and keep the theme of the facades. She argued that this building doesn't fit into or transition into the neighborhood. She hoped it was not too late to request that this design fit into the neighborhood. She explained another concern that this building would violate the privacy of her tenants in the apartment next door.

Keith West, 1352 A St., original member of Marks Historical District, noted that they had a



lot of input into the buildings in the area. This building is on the border of a transition area, and should transition better. He said it does not transition well into the area. He advocated a more cottage-like appearance.

Commissioner Caveglia pointed out that the Marks District Committee did approve the plan.

Frank Goulart asked for the applicant to get together with the Neighborhood Association. He noted neighbors concerns regarding privacy, potential leaking, and the need to back out onto the street. He commented that parking rights of the tenants on the adjacent lot might be violated. He would have wished for more input from neighbors. Commissioner Williams asked whether the building could be built not to have leaks. He was told that it can be done. Regarding traffic in the area, Frank Goulart was asked whether it is heavy. Mr. Goulart said that many people walk these streets and it is a blind hill.

Valerie Snart, 921 Warren, questioned the wisdom of having the tenants backing out of the parking space. She noted that they would back out and then make a U-turn, which could be very dangerous.

Principal Planner Patenaude said this has been determined to be the safest of the alternatives since Prospect Terrace has the least amount of traffic. He noted that staff was trying to avoid having cars back out on Hotel Avenue because of the slope and trying to keep from having the garage face on Main Street.

The public hearing closed at 8:15 p.m.

Chairperson Halliday asked how the height of the building compared to others in the area. She was told it was comparable but the height of other buildings was not known.

Commissioner Williams questioned backing out of the drive-way.

Principal Planner Patenaude explained that was why a variance is required since cars are generally required to drive-out forward.

Commissioner Williams suggested that people become creative when driving out. He said he liked the design which adds to the area. He then **moved**, seconded by Commissioner Caveglia, to find that the project is categorically exempt from CEQA, and to approve the site plan review and variance, subject to the findings.

Commissioner Sacks commented that she did not see that this will be a detriment to the area. Rather, she thought it would be a plus. As to having to back out of the garage, in her experience, quite often people will back in so they can see going out. Many people will be creative in a safe way. As to adding traffic to the area, any development will attract traffic. She said she would support the motion.

Commissioner Thnay commented that, if there were a safety issue, staff would bring it up. So apparently this is not enough of a safety concern. He commented on whether the Commission should leave this site as it is, or go with this proposal. In the long run, this application would be a benefit to the neighborhood, although he said the site should have more landscaping which would add more privacy. He thought this was a good addition to the area.

Commissioner Zermeño said he had looked into all the aspects of the plan. He noted that people will learn to live with the backing out. He said he liked the design and would support the motion.

Commissioner Bogue said he, too, liked the design. He did question the lack of outside access for the smaller unit. He was also concerned about landscaping up to the garage doors. He thought this might make the building look abandoned. He was disappointed that there was no detail on the landscape area.

Principal Planner Patenaude noted that the applicant plans to have pedestrian access to the storage area. He noted that staff can make sure the doors are attractive.

Commissioner Caveglia noted that the design is creative and will be an asset. He then welcomed home the architect, commenting that his will be an asset to the neighborhood.

Chairperson Halliday said she has mixed feelings about the design but believes the Commission has to be open to different concepts and designs, although the building might be out of scale and overpower the rest of the neighborhood. She said she would like to see the proposed building on the site.

Principal Planner Patenaude said that staff was attempting to maximize the density of the site due to its downtown location.

**The motion passed unanimously.**

~~2. Draft City of Hayward General Plan (excluding the Housing Element) and Final Environmental Impact Report~~

~~Senior Planner Calame presented the history of the report. He noted that a number of elements have been updated throughout the years and are included in this draft of the General Plan. The various changes which are being proposed were discussed with the Planning Commission and the City Council in prior meetings. He noted the comments received~~

~~Commissioner Caveglia asked about the letter on the Retirement Center.~~

~~Senior Planner Calame explained that the City has received an application for this site and there is a question regarding the density. Mr. Varni is asking for a high-density designation as the current designation would not allow that density nor would the proposed General Plan.~~

~~Commissioner Caveglia asked what would have to happen to make the retirement center proposal match the zoning.~~





## CITY OF HAYWARD AGENDA REPORT

Meeting Date 01/24/02  
Agenda Item 1

**TO:** Planning Commission

**FROM:** Erik J. Pearson, AICP, Associate Planner

**SUBJECT:** Site Plan Review Application No. 2001-0270 & Variance Application No. 2002-0027 – Bing Magpayo (Applicant/Owner): Request to Allow the Construction of a Duplex Residence in the CO (Commercial Office) Zoning District and for a Variance to Allow Vehicles to Back Out (Forward Motion Required) of the Garage Onto Prospect Terrace

The Property Is Located at 22377 Main Street at the Northwest Corner of Hotel Avenue

### RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, *New Construction or Conversion of Small Structures*; and
2. Approve the Site Plan Review and Variance, subject to the attached findings and conditions of approval.

### BACKGROUND:

Main Street, Hotel Avenue and Prospect Terrace border the site. The property has been vacant at least since 1976 as shown on the City's historical aerial photographs; the 1923 Sanborn Map shows the site occupied by a 1 – 2 car garage. Development of the property has likely been discouraged by the small size (4,800 square feet), the slope of the lot, and its proximity to the Hayward Fault. The site is underlain by fault traces of the Hayward fault. The applicant has had geotechnical reports prepared and has received approval from the City's Engineering Division for construction on the site.

### DISCUSSION:

The purpose of the CO zoning district is "to provide for and protect administrative, professional, business and financial organizations which may have unusual requirements for space, light and air, and which are clean and quiet and which are not detrimental to the residential use of adjacent

properties." Multiple-family dwellings, such as the proposed duplex, are primary uses in the CO District.

The General Plan designation for the property is Medium Density Residential (MDR), which allows for up to 17.4 dwelling units per net acre. At least 5,007 square feet of lot area are required to build two residential units on the site, whereas this lot is only 4,800 square feet (or 96 percent of the minimum).

Section 10-1.2830(c) of the Zoning Ordinance allows the Planning Director to administratively reduce any required lot size standard by 10 percent when "in the opinion of the Planning Director no practical alternative exists, the purpose of the district would not be compromised, no detrimental impact would result aesthetically, and the proposed use or construction otherwise complies with the City's land use and Building Code regulations." The purpose of the district would not be compromised in that multiple-family dwellings are listed as a primary use for the CO zoning district and it is desirable to encourage higher-density residential development at the edge of the downtown core.

The applicant and his architect originally worked with staff on a proposal for a mixed-use project consisting of a commercial office and one apartment. Because of site limitations, a solution could not be found that would provide for required handicap accessible parking and the vehicle turn-around space necessary to prevent cars from backing out onto the surrounding streets, required for commercial uses. Staff supports the use of the property as residential as the size and slope render the site impractical for commercial or mixed-use development.

#### Project Description

The proposal is for a two-unit multi-family residence with an attached four-car garage. The garage consists of two side-by-side tandem garages. One unit contains 1,848 square feet and has two bedrooms while the other contains 1,039 square feet with one bedroom. The building, designed to be 35 feet high, is below the height limit of 40 feet for the CO District. The height of the garage controls the height of the building as it is raised above the natural grade so that the maximum driveway slope off Prospect Terrace is not exceeded. The lower level at the east end of the building, off Main Street, would be for storage only; each unit will have the required minimum of 90 cubic feet of storage space in this area. The building would cover only 40 percent of the lot while the maximum lot coverage permitted is 50 percent.

The building's mass is broken up by an open entry area, which separates the living areas, giving the appearance of two separate buildings on one foundation. The horizontal redwood siding will give the building a softer look, further reducing the massing. The foundation is under-emphasized by the decorative block wall material and the tendency is for the eye to focus on the redwood siding and large windows of the living area, which is cantilevered over the foundation wall. All street frontages will be landscaped with lawn, shrubs and six street trees in addition to the two existing street trees.

The building is designed such that no parking is visible from either Hotel Avenue or Main Street; the garage is accessed from Prospect Terrace. Prospect Terrace serves as an alley, providing

access to garages and to the rear of lots on Main Street. A row of period style bungalows lines Hotel Avenue to the west.

A general policy of the North Hayward Neighborhood Plan is to protect the character of individual neighborhoods. One policy specifically calls for the extension of the Prospect Hill ambiance "to the whole hill" by discouraging large blocky buildings with flat roofs. The implementation of this policy called for the rezoning of a portion of the Commercial Office zoning district to Residential Office. The rezoning did not cover this area between Warren Street and Hotel Avenue. It appears that the intent was not to impose the "Prospect Hill" architecture to this area west of Main Street and south of Warren Street. This property connects more strongly visually and by its proximity, to the Downtown Core than to Prospect Hill.

The lot is bordered by older Tudor style homes to the west; bungalows and other buildings of nondescript styles to the north, commercial office buildings and a parking lot to the east; and to the south are unfinished and dilapidated commercial masonry buildings. There is not a dominant architectural style found in the area. The divergent styles of surrounding buildings provide an opportunity to introduce this building with a striking, avant-garde architecture. To the north on Main Street, as shown in the pictures supplied by the applicant, there are many other buildings with flat roofs and angular shapes. The creativity shown by the architect may fit in well with this eclectic neighborhood.

The Marks Historic District Citizens Advisory Board reviewed and commented on the design of the plans at their regular meeting on November 8, 2001 (see minutes attached). The Board recognized that the architecture is different from the surrounding buildings, and that there is not a single theme for the area that would dictate the style for a home on this lot. The Board approved the plan with a vote of 3 – 2. The two dissenting votes were cast by Board members who believe that the size of the building and the architectural style are not appropriate for this area.

A letter from the owners of the adjacent lot to the north, West Properties, objecting to the proposal, was received on November 26, 2001. The Wests believe that the architecture is not consistent with the "old downtown theme." They cite that the building is too modern, cold, angular and too large for the site. The proposed duplex would be approximately 10 feet away from their existing apartment house, however impacts to privacy are minimized by the two very small windows on the north elevation of the proposed building.

### Variance Discussion

Section 10-1.400(m)(6) of the Zoning Ordinance requires multiple-family residential development to have a driveway turnaround sufficient to allow vehicles to exit the property in a forward direction. The applicant is proposing two tandem garages sharing a driveway off Prospect Terrace. Due to the small size of the lot, the slope of the lot and the slopes of the surrounding streets, there is no feasible alternative to having cars back onto Prospect Terrace. There are other residential properties on Prospect Terrace with similar garage locations, so this would not be the only property having vehicles backing onto the street. The garage will not pose a safety problem due to the low volume of traffic on Prospect Terrace. Staff supports the

request for a variance because it enables the project to create a higher density of living units in proximity to downtown.

#### **ENVIRONMENTAL REVIEW:**

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, *New Construction or Conversion of Small Structures*.

#### **PUBLIC NOTICE:**

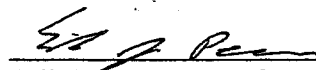
On September 26, 2001, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the North Hayward Neighborhood Plan Task Force members and the Hayward Area Planning Association. The Referral Notice provided an opportunity for persons to comment on the project. As mentioned above, staff has received one letter from a neighboring property owner.

On January 14, 2002, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to help notify neighbors and interested parties residing outside the 300-foot radius.

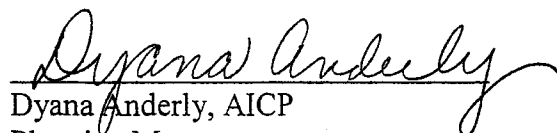
#### **CONCLUSION:**

The proposed project is consistent with adopted land use policies of the General Policies Plan and the North Hayward Neighborhood Plan. The project also meets all applicable requirements of the Zoning Ordinance and other applicable ordinances. While the architectural style is avant-garde, it contributes to the eclectic mix of styles in the immediate neighborhood. Staff recommends that the Site Plan Review and Variance be approved.

*Prepared by:*

  
Erik J. Pearson, AICP  
Associate Planner

*Recommended by:*

  
Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area & Zoning Map
  - B. Findings for Approval for Site Plan Review 2001-0270 and Variance 2002-0027
  - C. Conditions for Approval for Site Plan Review 2001-0270 and Variance 2002-0027
  - D. Minutes from the CAB meeting of November 8, 2001
  - E. Letter from neighbor dated November 8, 2001
  - F. Letter from applicant dated December 20, 2001
- Plans

## **FINDINGS OF APPROVAL**

### **SITE PLAN REVIEW APPLICATION NO. 2001-0270 & VARIANCE APPLICATION NO. 2002-0027**

**Bing & Connie Magpayo (Applicants/Owners)  
22377 Main Street**

**Request to construct a new two-unit multi-family residence.**

#### **General**

- A. The approval of Site Plan Review Application No. 2001-0270 and Variance Applications No. 2002-0027, as conditioned, will have no significant impact on the environment, cumulative or otherwise. The project reflects the City's independent judgment, and the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303, of the CEQA Guidelines (*New Construction or Conversion of Small Structures*).

#### **Site Plan Review**

- B. The proposed project, as conditioned, will be compatible with surrounding structures and uses and is an attractive addition to the City in that the architecture of the buildings will be a complement to the neighborhood and the landscaping will help enhance the appearance of the area.
- C. The development takes into consideration physical and environmental constraints in that the architect has designed the foundation and garage/driveway in a manner most practical for the site.
- D. The development complies with the intent of City development policies and regulations including, but not limited to open space, parking (with the exception of vehicles backing out onto the street), landscaping, setbacks and height limits.
- E. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.
- F. That the proposal is compatible with the policies and strategies of the General Plan and North Hayward Neighborhood Plan in that the general plan calls for residential use and that the site best suited, in terms of size and location, for residential use.

#### **Administrative Modification**

- G. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints. The size of the lot is

**ATTACHMENT B**

only four percent below the minimum standard and higher densities of living units are desirable near downtown.

- H. The administrative reduction in the required lot size would not compromise the purpose of the district in that multiple-family dwellings are a primary use of the Commercial Office zoning district.
- I. No practical alternative to the lot size reduction exists.
- J. No detrimental impact would result from the modification because the additional dwelling unit causes no change to the exterior building design.
- K. The proposed design otherwise complies with the City's land use and Building Code regulations.

#### **Variance**

- L. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints. The property is well suited for multiple-family development, but the size and slope make it infeasible to provide a vehicle turn-around.
- M. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification. Other lots fronting Prospect Terrace have garages facing the street with no turnaround.
- N. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

## CONDITIONS OF APPROVAL

### **SITE PLAN REVIEW APPLICATION NO. 2001-0270 & VARIANCE APPLICATION NO. 2002-0027**

**Bing & Connie Magpayo (Applicants/Owners)**

**22377 Main Street**

**Request to construct a new two-unit multi-family residence.**

#### **General:**

1. Application Nos. **PL-2001-0270** and **PL-2002-0027** is approved subject to the conditions listed below. This permit becomes void **one year** after the effective date of approval, unless prior to that time a building permit application has been accepted for processing by the Building Official, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division **15** days prior to the above date.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
4. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.
5. Prior to issuance of a building permit, the plans shall be revised to show that each unit has a minimum of 90 cubic feet of storage space.
6. Violation of conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.

#### **Landscaping:**

7. Grading and improvement plans shall include measures for tree protection and preservation as required by the City's Landscape Architect including the installation of a fence at the dripline of the trees during the construction period.
8. A street tree and front-yard landscaping plan shall be submitted for review and approval by the City prior to the issuance of building permits. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance. Front yards shall be limited to a maximum of 50 percent fescue turf. A minimum of one 15-gallon tree shall be provided for every 50 linear feet of street frontage or fraction thereof. Trees shall be

**ATTACHMENT C**



planted a minimum of 5 feet from paving and underground utilities. Trees shall be double-staked per City standard SD-122.

Street trees on Main Street shall be *Sapium sebiferum* – Chinese Tallow tree. Root barriers shall be provided for trees with an aggressive root system.

9. Front-yard landscaping and street trees shall be installed prior to occupancy, unless otherwise approved by the City Landscape Architect.
10. Park Dedication In-Lieu Fees are required for new dwelling units. Fees will be those in effect at the time of issuance of the building permit.

**Public Works/Division of Engineering:**

11. Dedicate a 6' x 6' easement for the existing fire hydrant prior to the issuance of certificate of occupancy.
12. Prior to issuance of a Building Permit, submit plan for the proposed street improvements.
13. Construction plans shall include handicap ramps at the street corners.
14. Any broken curb, gutter and sidewalk along the property frontage shall be removed and replaced.
15. All retaining walls shall be reinforced concrete.

**Public Works/Division of Utilities:**

16. Show location of water and sewer main in the abutting street on plans.
17. Show location of water meter on plans. Keep in mind that water meters are to be located a minimum of two feet from top of driveway flare as per City of Hayward Standard Details 213 thru 218. Water meter to be located a minimum of six feet from sanitary sewer lateral as per State Health Code.
18. Show Gallon Per Minute Demand on plans to determine proper meter size.
19. Show following notes on plans:
  - a) Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate as per Hayward Municipal Code 11-2.02.1.
  - b) Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
  - c) Water and Sewer service available subject to standard conditions and fees in effect at time of application.

**ATTACHMENT C**

**Fire Department:**

20. The house will be required to have the following:

- a) A minimum 6-inch address shall be installed on the building so as to be visible from the street. A minimum 4-inch address will be acceptable if it is self-illuminated.
- b) Smoke detectors shall be installed per the Uniform Building Code.
- c) A spark arrestor shall be installed on any chimney caps.

**Public Works/Division of Solid Waste & Recycling:**

21. This approval is subject to the requirements contained in the memo from the Solid Waste and Recycling Division of the Public Works Department dated 9/28/01.

**ATTACHMENT C**

**MARKS HISTORIC REHABILITATION DISTRICT  
CITIZENS' ADVISORY BOARD  
SPECIAL MEETING MINUTES**

**Thursday 8 November 2001  
City Hall, 777 "B" Street, Room 2B, Hayward, CA 94541**

Present: Clarence Jackson, Banning Fenton, Kathy Streeter, Jim De Mersman,  
Keith West, Steve Ignatow

Staff: Richard E. Patenaude, AICP, Principal Planner  
Erik Pearson, AICP, Associate Planner  
Cece Cooke, Secretary, Minutes

Visitors: None

I. Call to Order: 9:01 a.m.

II. Public Comments:  
None.

III. Approval of Minutes:  
M/S/C (Jackson/Streeter) unanimously to approve the minutes of October 4, 2001.

IV. Residence at Corner of Main and Hotel  
Richard Patenaude introduced Erik Pearson, Associate Planner.

Proposal was made to allow a residence in the office/commercial (CO) zone. It is in the Mark's Historic District.

Erik Pearson passed around photos for Committee to review. Property difficult to develop. Got geotechnical clearance to build. 4,800 square feet – small lot. Will be used for a single residence.

Architect, George Tolosa, introduced. He discussed project and passed around drawings for Committee. Pointed out buildings across street – commercial office buildings.

The proposed building would have low profile – flat roofs. Three other buildings in the area have flat roofs. On side of street is two story apartment building. Not in great condition. Hoping their building will refocus and draw quality to area.

It is a single building that appears as two structures, so it does not overwhelm the area.

Redwood siding. All four facades are wood and is characteristic of area. Special concrete block has color tint. Adds to design value. Makes less commercial and more residential.

Banning Fenton asked where building/property started and ended.

George Tolosa said building length is 80'.

Miscellaneous Comments: Hotel view is most prominent view. Site across stopped because fault line runs there. Height is 32'. Discussion about siding.

Committee reviewed photos, drawings further.

George Tolosa noted there is only 10' between the proposed house and the apartment building to the North. Hopes to mask apartment building with the new residence.

Richard Patenaude showed and discussed photos/plans again. Some discussion around landscape. George Tolosa said they are required to have a street tree 20 – 30' along Main and Hotel. Will provide low ground cover and shrub. Erik Pearson said the City does not require a landscape plan for single family projects.

Keith West discussed layout of building. Asked about bedroom. George Tolosa said windows face South and West – Hotel Side and Prospect.

George said the bathroom window is used primarily for light into space.

Staff Concerns: Richard Patenaude – difficult site to work with. Have been a number of proposals. ADA access difficult due to slope and size. Previous proposal was for modular homes. This was discouraged. This is the first serious proposal.

Discussion around location. There is a consistent theme on Prospect. There is mish mash of styles on first two blocks of Main.

Keith West said it is away from town. All residential. He does not agree that the flat top of building fits the down side of the street.

Kathy Streeter said it is a beautiful design, but does not blend with residential or commercial. It will stand out.

Banning Fenton thinks it does blend in with a house already there – the Frederick house. Same design.

Keith West asked if structure was investigated.

George Tolosa said it is within the City's guidelines.

Discussion around residents staring into side of building. Steve Ignatow said it is set back 5'.

Jim De Mersman likes design. Not sure about architecture in that type of neighborhood. But will be nice to have one less vacant piece of land. Close to commercial district. Suggested brick at bottom of building instead of concrete to blend with other surrounding buildings. Brick could also be veneer.

Jim De Mersman asked for motion. Clarence moved to accept plan as is.

Vote taken.

Ayes: 3

Nays: 2

Abstained: 1 – Keith West.

V. General Business:

Keith West distributed minutes from August 26, 1999 meeting that had By-laws.

Paul Dalmon had located By-laws from files that are different than August 1999 By-laws.

At first decided that By-laws would be put under next meeting's agenda. Kathy Streeter suggested that they could be discussed under New Business.

VI. New Business:

By-laws from August 26, 1999 meeting originally were to be presented to Council. Not sure that ever happened due to Personnel changes. Richard Patenaude to check to see if ever put on and if not, the process.

Miscellaneous discussion around By-laws. Eligibility of Members was discussed. Was decided that 7 members would consist of 2 Historical Society, 2 BIA, 2 Chamber of Commerce and 1 tenant or owner. CAB is only board that does not require residency or that financial information be provided.

Earlier By-laws listed Hayward Downtown Association instead of BIA.

Term Limits discussed. 12 years questioned.

Need to find out how to handle Vacancy(ies).

At Large position discussed. Could be owner or tenant. Renting or buying. Person has to be a "downtown" representative because purpose of this Board is "Historical".

Handbook that was made with Historical criteria needs to be handed out to new tenants/owners. Sometimes exterior(s) do not go with the historical. Suggested that staff keep that in mind when new projects are proposed.

Discussion whether to change effective date of By-laws.

VII. Adjournment: 9:32 a.m.

**West Properties**  
**1352 A Street**  
**Hayward, California 94541**  
**510-582-2272**

RECEIVED

November 8, 2001

NOV 26 2001

PLANNING DIVISION

City of Hayward  
Diane Anderly  
Planning Department  
777 B Street  
Hayward, California

RE: **Proposed Project at 22377 Main Street**

Dear Ms. Anderly,

It has come to our attention that the lot at the above address has proposed building plans before the Planning Department. We have had the opportunity to view the architectural drawings. We are writing to you because we object to the building design.

The City of Hayward has a specific plan for the downtown area. The new buildings (City Hall, Albertson's and the new multiple housing) and refurbished buildings (Longs and the Foot-hill Boulevard Hardware store) for example, are all consistent with the over all plan. A new and up dated City of Hayward with the old down town theme.

Mr. Magpayo's proposed building is hugely inconsistent with the over all theme of down town Hayward. If this proposed building is approved it will be an eyesore like the few buildings further up Main Street in the 22200 block of Main Street. In this block there are prime examples of what does not work. A charming ginger bread like home abutting up against a cinder block square building. We do not wish for this particular building style be approved. It is far too modern, cold and angular for Hayward's new theme. Also the proportions of the building design appear to fight it size of the small lot it is to be built on. I do welcome Mr. Magpayo to go back and create a building that is consistent with it neighbors.

Our newest neighbor, the Wienerschnitzel building on the corner of Main and A Street went back to design review more than once to achieve the old downtown theme. This building is consistent with the neighborhood and adds to the downtown natural flow of over all design.

*Please do not approve the plans for this building.* The neighborhood should remain quaint with charming and with the old down town character. We would appreciate it if our objection to this proposed building plan is shared with the City Council and the Marks Historic Advisory Board.

Sincerely,  
Keith West  
Scott West  
Melissa West Phillips

To: City of Hayward Planning Commission

From: George Edwin Tolosa  
Workshop Building Design  
510/783.8307

Date: December 20, 2001

Re: Proposed design for Mr. Bing Magpayo at 22377 Main St.

Dear Planning Commission Members,

Thank you for taking the time to look at our proposed plans for the residences at 22377 Main St. Enclosed you will find some renderings of our project, a set of plans, site photographs and images of buildings we used as case studies for our design from the surrounding neighborhood.

The corner of Hotel and Main is a visually prominent site. It is special in respect to the fact that it lies directly on the border of two uses, the medium density residential proposal of the North Hayward Plan and the revitalized commercial program for the Downtown Plan. The building we propose acts as an important "transition" between these two areas. In addition, the first building you currently see in this corner is a poorly kept, badly in disrepair apartment building that brings down the character and quality of the neighborhood, as is evident in the site photographs. Our proposed design intends to "counter act" these effects by erecting a home of quality design and materials.

We would like to make the case that our proposed design is ideal for its site and the surrounding neighborhood, and further more, that a "ginger bread" or "traditional" design is clearly inappropriate. Rather than a single style of architecture, Main St. benefits from having a diverse make-up in its architectural imagery, zoning uses, and housing options.

If anything, we've determined through the case studies enclosed that the Main St. Corridor embodies a contemporary feel. We believe that by bringing the best aspects of the neighborhood into our building's design, we have been able to maintain the spirit of the Main St. Corridor as a diversified, contemporary neighborhood, much like the city of Hayward itself as a whole.

What we have proposed is a home born out of quality and inspiration. I hope the Planning Commission will agree with this study, and approve our design.

Thank you again for your consideration,

George Edwin Tolosa



# DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

*mal  
2/24/02*

RESOLUTION DENYING APPEAL OF PLANNING  
COMMISSION'S DECISION TO APPROVE SITE PLAN  
REVIEW APPLICATION NO. 2001-0270, VARIANCE  
APPLICATION NO. 2002- 0027 AND ADMINISTRATIVE  
REDUCTION OF LOT SIZE STANDARDS - FRANK  
GOULART (APPELLANT), BING MAGPAYO  
(APPLICANT/OWNER)

WHEREAS, Site Plan Review Application No 2001-0270 concerns a proposal for a two-unit multi-family residence with an attached four-car garage on property located at 22377 Main Street at the Northwest corner of Hotel Avenue in a CO (Commercial Office) District, in conjunction with Variance Application No. 2002-0027 to allow vehicles to back out onto Prospect Terrace and an administrative reduction of the minimum lot size standards; and

WHEREAS, on January 24, 2002, the Planning Commission found that the project was categorically exempt from environmental review under the California Environmental Quality Act and unanimously approved the site plan review, variance and administrative modification allowing construction of the duplex; and

WHEREAS, on January 31, 2002, appellant Frank Goulart filed an appeal to the Planning Commission's decision; and

WHEREAS, the City Council has reviewed and considered all the material presented, including the record of the proceedings before the Planning Commission, at a public hearing held on March 19, 2002; and

WHEREAS, the City Council hereby finds that the project is categorically exempt from CEQA review and also finds and determines that:

VARIANCE APPLICATION NO. 2002-0027:

- (1) There are special circumstances applicable to the property, including size, shape, topography, location, surroundings or other physical constraints in that the property is best suited for multi-family development, but the size and slope of the property make it infeasible to provide a vehicle turnaround; and
- (2) Strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties under the same zoning classification in

that other developed properties fronting on Prospect Terrace have garages facing the street with no turnaround; and

- (3) The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone in which the property is situated in that other properties in the area have garages facing the street with no turnaround.

**SITE PLAN REVIEW NO. 2001-0270:**

- (1) The project, as conditioned, will be compatible with the surrounding structures and uses and is an attractive addition to the City in that the architecture of the building will complement the neighborhood and the landscaping will enhance the appearance of the area; and.
- (2) The project takes into consideration physical and environmental constraints in that the architect has designed the foundation and garage/driveway in a manner most practical for the site; and
- (3) The project complies with the intent of the City's development policies and regulations, including but not limited to open space, landscaping, setbacks and height limits; and
- (4) The project will be operated in a manner determined to be acceptable and compatible with surrounding development; and
- (5) The project is compatible with the policies and strategies of the General Plan and North Hayward Neighborhood Plan in that the General Plan designation for the property is Medium Density Residential (MDR) and the property is best suited for residential use.

**ADMINISTRATIVE MODIFICATION:**

- (1) The reduction of the lot size by four percent of the minimum standard requirement is appropriate in that no practical alternative exists; the purpose of the district will not be compromised; no detrimental impact would result aesthetically; and the proposed use otherwise complies with the City's land use and building code regulations. The site limitations of the property render it impracticable for commercial use or mixed use development. Multiple family dwellings are a primary use in the Commercial Office (CO) District and higher-density residential development is desirable at the edge of the downtown core.

To: Mayor and City Council of Hayward

From: George Edwin Tolosa  
Workshop Building Design  
510/783.8307

Date: March 4, 2002

Re: Proposed design for Mr. Bing Magpayo at 22377 Main St.

Dear City Council Members,

Thank you for taking the time to look at our proposed plans for the residences at 22377 Main St. Enclosed you will find some renderings of our project, a set of plans, site photographs and images of buildings we used as case studies for our design from the surrounding neighborhood.

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We would like to make the case that our proposed design is ideal for its site and the surrounding neighborhood, and further more, that a "ginger bread" or "traditional" design is clearly inappropriate. Rather than a single style of architecture, Main St. benefits from having a diverse make-up in its architectural imagery, zoning uses, and housing options.

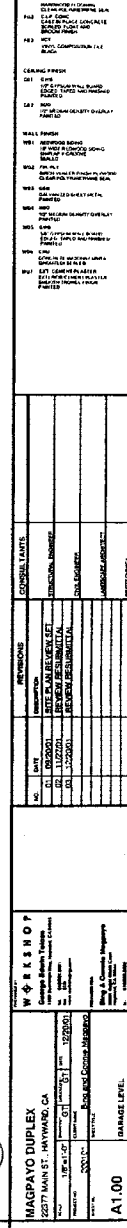
If anything, we've determined through the case studies enclosed that the Main St. Corridor embodies a contemporary feel. We believe that by bringing the best aspects of the neighborhood into our building's design, we have been able to maintain the spirit of the Main St. Corridor as a multi-faceted, contemporary neighborhood, much like the city of Hayward itself as a whole.

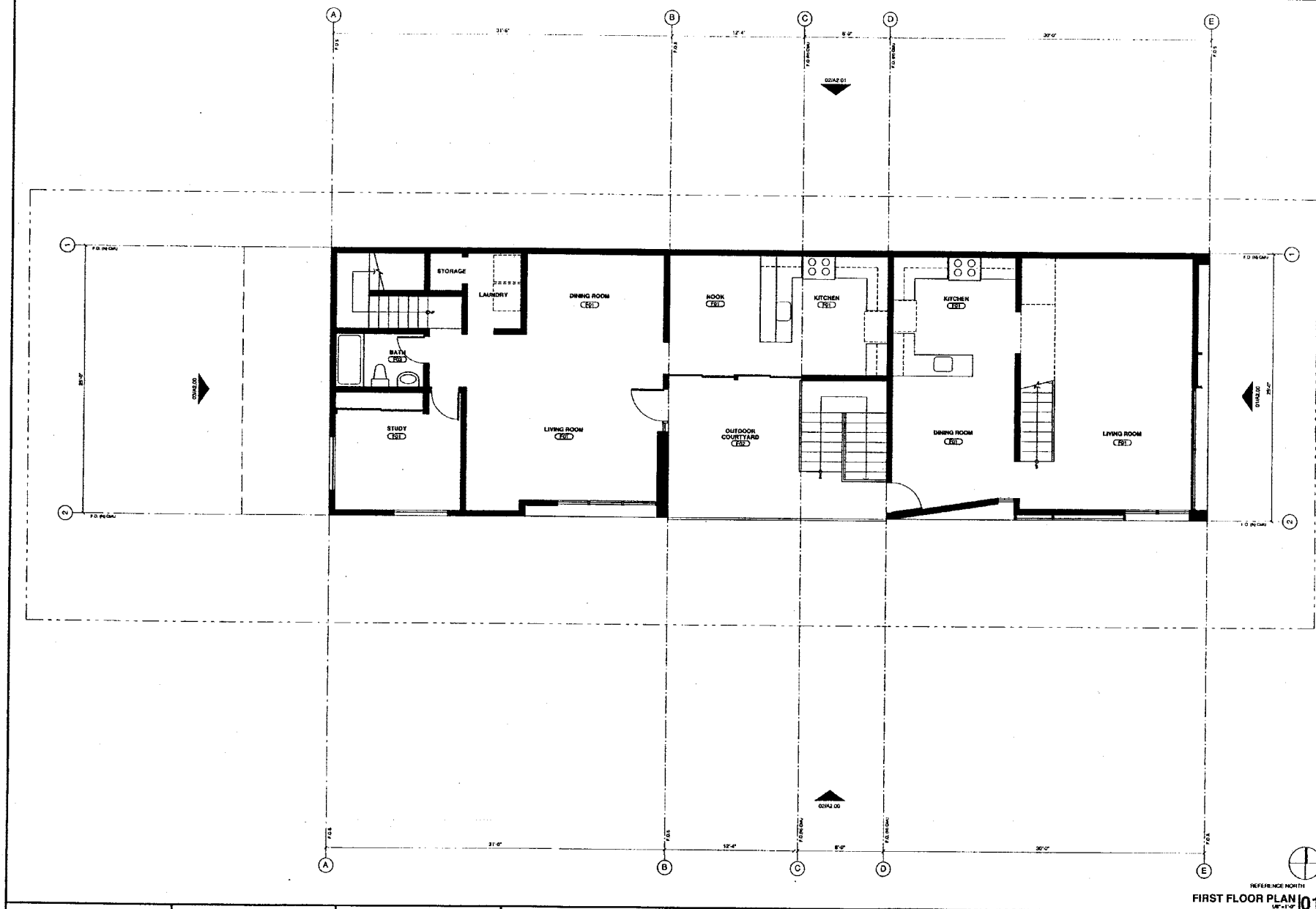
What we have proposed is a home born out of quality and inspiration. We have gained the support of the community through the Department of Community and Economic Development and the Citizen's Advisory Board, as well as the unanimous support of the Planning Commission. I hope the City Council will agree with this study, and approve our design.

Thank you again for your consideration,

George Edwin Tolosa

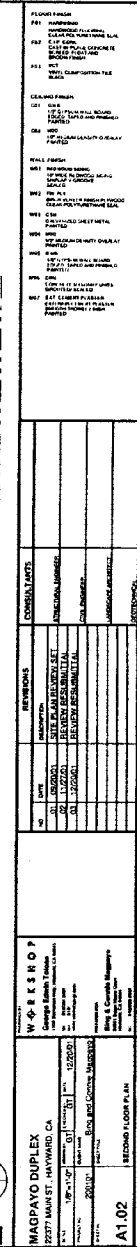


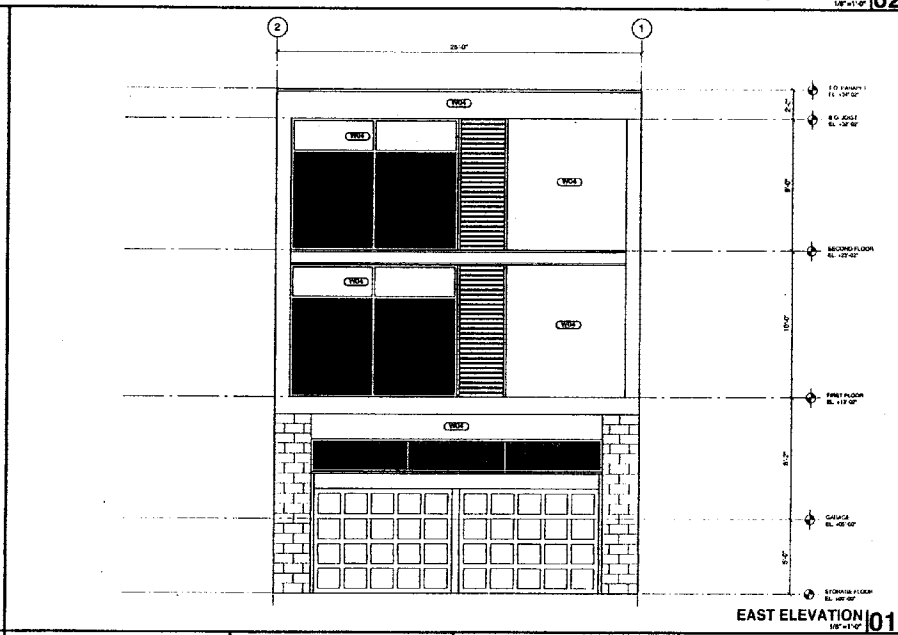
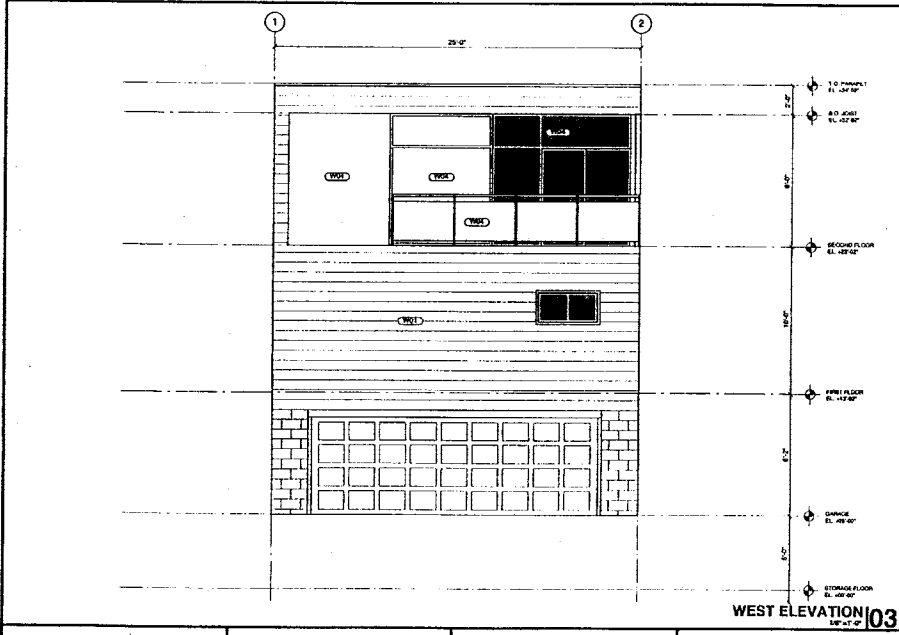
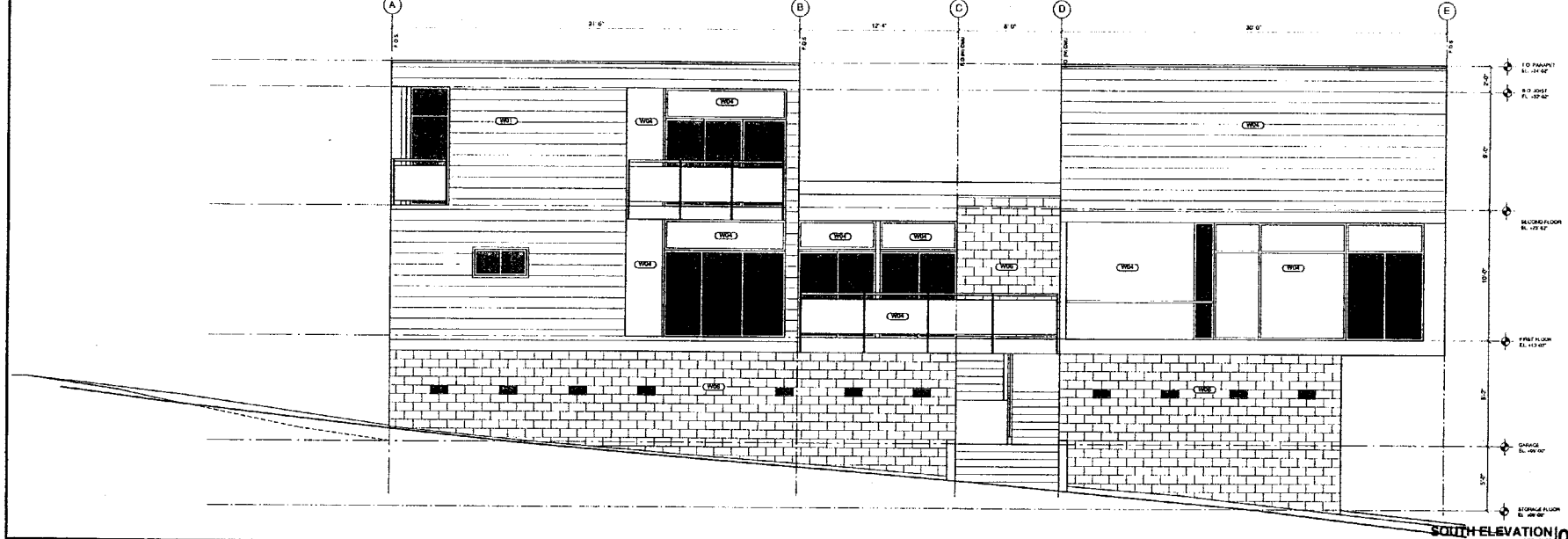




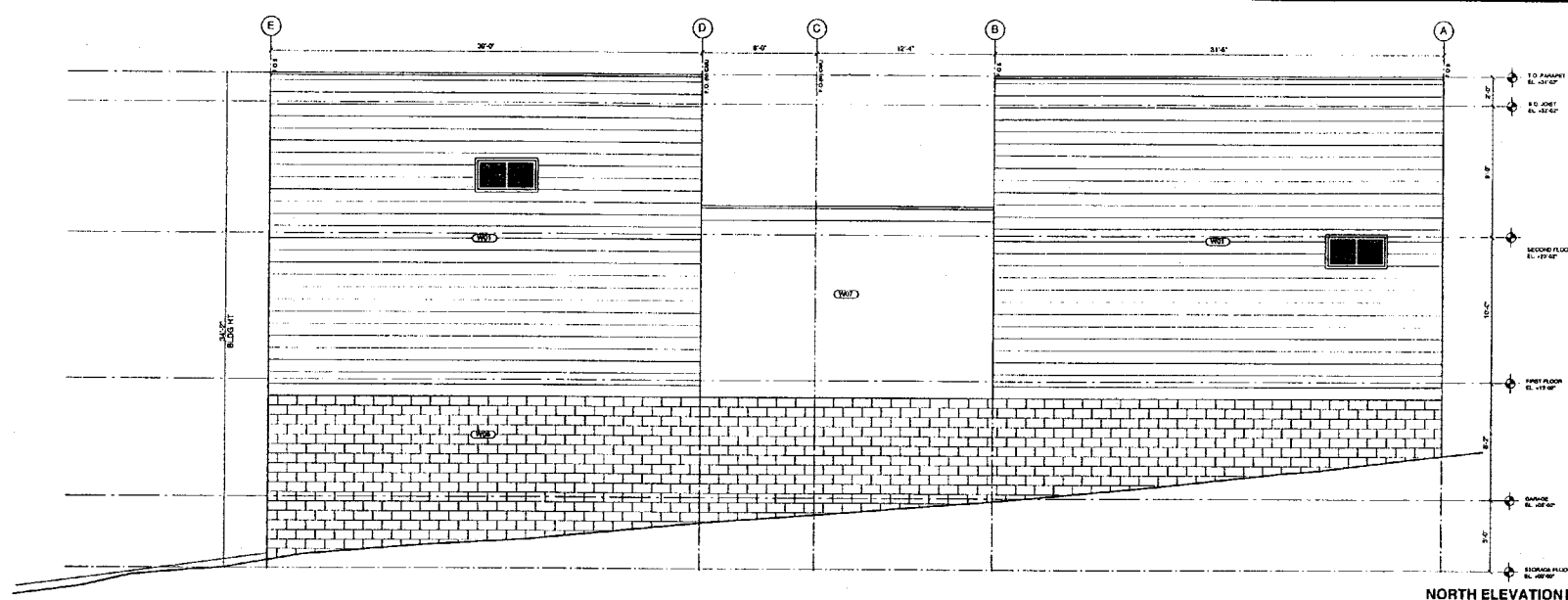
REFERENCE NORTH  
**FIRST FLOOR PLAN 101**

<b>WEEKS</b> George & Sons, Inc. 2237 MAIN ST., HAYWARD, CA 415-885-1100		<b>COMMENTS</b> THIS PLAN IS A REVISION OF THE PREVIOUS EDITION. ALL CHANGES ARE INDICATED BY A DASH OR A CIRCLE.	
PROJECT NO. 200001	SHEET NO. 101	DATE 10/1/00	DRAWN BY J. J. JONES
CHECKED BY J. J. JONES	APPROVED BY J. J. JONES	SCALE 1/8" = 1'-0"	TYPED BY J. J. JONES
PROJECT NAME MAGPOND DUPLEX	PROJECT ADDRESS 2237 MAIN ST., HAYWARD, CA	PROJECT OWNER J. J. JONES	PROJECT ARCHITECT J. J. JONES
PROJECT DESCRIPTION DUPLEX	PROJECT STATUS IN PROGRESS	PROJECT BUDGET \$100,000	PROJECT COMPLETION 12/31/00



[illegible]





NORTH ELEVATION 102

ELEVATION 103

ELEVATION 101

<b>PROJECT</b> MAGPAYO RESIDENCE 22277 MAIN ST., HAYWARD, CA 94541		<b>DATE</b> 10/1/01		<b>SCALE</b> 1/8" = 1'-0"	
<b>DESIGNER</b> W. & R. S. H. O. P. George S. H. O. P. 22277 MAIN ST., HAYWARD, CA 94541		<b>CLIENT</b> MAGPAYO RESIDENCE 22277 MAIN ST., HAYWARD, CA 94541		<b>PROJECT NO.</b> 2001-01	
<b>REVISIONS</b>		<b>CONSULTANTS</b>		<b>APPROVALS</b>	
1. 10/1/01 2. 10/1/01 3. 10/1/01		STRUCTURAL ENGINEER CIVIL ENGINEER MECHANICAL ENGINEER ELECTRICAL ENGINEER PLUMBING ENGINEER HEATING ENGINEER AIR CONDITIONING ENGINEER ELEVATION ENGINEER LANDSCAPE ARCHITECT ARCHITECT		PROJECT MANAGER DESIGNER CHECKER IN CHARGE	
<b>W. &amp; R. S. H. O. P.</b> George S. H. O. P. 22277 MAIN ST., HAYWARD, CA 94541 (925) 781-1111 FAX (925) 781-1112 WWW.WRSHP.COM		<b>DATE</b> 10/1/01		<b>SCALE</b> 1/8" = 1'-0"	
<b>PROJECT NO.</b> 2001-01		<b>CLIENT</b> MAGPAYO RESIDENCE 22277 MAIN ST., HAYWARD, CA 94541		<b>PROJECT NO.</b> 2001-01	
<b>REVISIONS</b>		<b>CONSULTANTS</b>		<b>APPROVALS</b>	
1. 10/1/01 2. 10/1/01 3. 10/1/01		STRUCTURAL ENGINEER CIVIL ENGINEER MECHANICAL ENGINEER ELECTRICAL ENGINEER PLUMBING ENGINEER HEATING ENGINEER AIR CONDITIONING ENGINEER ELEVATION ENGINEER LANDSCAPE ARCHITECT ARCHITECT		PROJECT MANAGER DESIGNER CHECKER IN CHARGE	















Building at 22326 Main St., across from proposed residence.



Our proposed design's relationship with this building is reflected in its horizontal lines, low profile roof, and the use of repeating bands of glazing for fenestration.





Entry to building at 22283 Main St. Notice the trellised canopy over the main entry and use of well composed geometry for detail, much like our proposed design at 22377 Main St.



Like many of its Eichler style neighbors, 22336 Main St. boasts clean lines, a horizontal roof, and bands of glass, reinforcing Main St. as a contemporary corridor.





22280 Main St.

Clearly influenced by the Usonian Style of master architect Frank Lloyd Wright, this residence expresses clean lines, a horizontal roof, and handsome corner windows.



The office building at 22245 Main St. further invokes the contemporary character of Main St., with its clean form and expanse of glazing.



Residences at 22100 Main St. block.



The proliferation of buildings such as these demand the continuity of Main St.'s diverse character be maintained, only with a more up to date look, and with the use of finer materials.